

NOV 29 2018

Clerk, U.S. Courts
District Of Montana
Missoula DivisionIN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

JEROMY BRYANT,

Plaintiff,

vs.

MICHAEL FLETCHER, THOMAS
WILSON, BALTISAR, SEGOVIA,
DOE 1, DOE 2, DOE 3, and
MICHELLE STEYH, sued in their
individual capacities,

Defendants.

CV 18-26-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered his Findings and Recommendations on October 9, 2018, recommending that the Court dismiss this action for failure to prosecute and deny a certificate of appealability. (Doc. 25.) Bryant failed to timely object to the Findings and Recommendations, and so waived the right to de novo review of the record. 28 U.S.C. § 636(b)(1). This Court reviews for clear error those findings and recommendations to which no party objects. *See Thomas v. Arn*, 474 U.S. 140, 149–53 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been made.” *Wash. Mut., Inc. v. United States*, 856 F.3d 711, 721 (9th Cir. 2017)

(citation omitted).

Having reviewed the Findings and Recommendation (Doc. 25), the Court finds no clear error in Judge Johnston's recommendation that this matter be dismissed. Bryant has filed nothing since opening this case on February 1, 2018. He did not comply with the Court's scheduling order; he did not reply to the Defendants' motion for summary judgment; and he did not reply to the Findings and Recommendations. The Court agrees with Judge Johnston that, aside from "the public policy favoring disposition of cases on their merits," every other relevant factor weighs heavily in favor of dismissal. *See Pagtalunan v. Galaza*, 291 F.3d 639 (9th Cir. 2002).

Nor is there clear error in Judge Johnston's recommendation that the Court certify pursuant to Federal Rule of Appellate Procedure 24(a)(3)(A) that any appeal would not be taken in good faith. Bryant's inaction has made resolution of this case on the merits impossible. Drawing this matter out further would only cause unnecessary delay, expense, and administrative burden.

Accordingly, IT IS ORDERED:

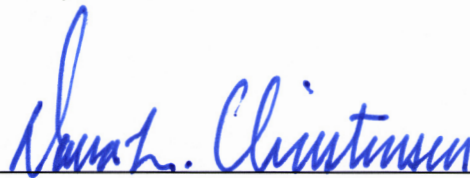
(1) Judge Johnston's Findings and Recommendations (Doc. 25) are
ADOPTED IN FULL;

(2) This matter is DISMISSED with prejudice pursuant to Federal Rule of Civil Procedure 41(b);

(3) The Clerk of Court shall close this case, enter judgment pursuant to Federal Rule of Civil Procedure 58, and terminate all pending motions; and

(4) The Clerk of Court shall have the docket reflect that this Court certifies, pursuant to Federal Rule of Appellate Procedure 24(a)(3)(A), that any appeal of this decision would not be taken in good faith.

DATED this 29th day of November, 2018.



Dana L. Christensen, Chief Judge
United States District Court